

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Adam Twiss
	:	
For	:	METHOD AND APPARATUS FOR
	:	TRAFFIC MANAGEMENT IN
	:	PEER-TO-PEER NETWORKS
	:	
Serial No.	:	10/544,277
	:	
Filed	:	December 23, 2005
	:	
Art Unit	:	2456
	:	
Examiner	:	Mai, Kevin S.
	:	
Attorney Docket No.	:	ALC 3520
	:	
Confirmation No.	:	1316

**APPEAL BRIEF**

Mail Stop Appeal Brief Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Appellant respectfully submits this Appeal Brief in support of the Notice of Appeal filed on June 15, 2010.

**I. REAL PARTY IN INTEREST**

The party in interest is Alcatel-Lucent, by way of an Assignment recorded at Reel 017383, frame 0444.

## **II. RELATED APPEALS AND INTERFERENCES**

Following are identified any prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal:

NONE.

## **III. STATUS OF CLAIMS**

Claims 75-89, 92-105, 108, 110-115, 117-123, and 126 are on appeal.

Claims 75-89, 92-105, 108, 110-115, 117-123, and 126 are pending.

No claims are withdrawn.

No claims are allowed.

Claims 1-74, 90, 91, 106, 107, 109, 116, 124, 125, and 127-148 are canceled.

Claims 75-89, 92-105, 108, 110-115, 117-123, and 126 are rejected.

## **IV. STATUS OF AMENDMENTS**

All amendments have been entered.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter recited in independent claim 75 includes: “A method of reducing traffic in a decentralized peer-to-peer network, said peer-to-peer network operating over an underlying network comprising first and second network portions, the method comprising: identifying (paragraph [0067], line 2), with an Internet Service Provider (ISP) router [Fig. 4c: 414] (paragraph [0065], line 8), whether messages in the first network portion are peer-to-peer messages or other messages; routing (paragraph [0058], line 4) all peer-to-peer messages in the first network portion with an intended destination in the second network portion outside (paragraph [0058], line 5) of a network of an Internet Service Provider (ISP) to a gateway [Fig. 4c: 408] (paragraph [0065], line 2) between peer-to-peer nodes residing on said first and second network portions; and controlling (paragraph [0077], line 5) transport of said peer-to-peer messages at said gateway [Fig. 4c: 408] (paragraph [0065], line 2) to limit propagation of said peer-to-peer messages into said second network portion, without limiting propagation of the other messages into the second network portion.”

The subject matter recited in independent claim 92 includes: “A computer network message controller that reduces traffic in a decentralized peer-to-peer network, said peer-to-peer network operating over a physical network comprising first and second network portions, said network message controller comprising: a router [Fig. 5: 506] (paragraph [0067], line 2) that identifies (paragraph [0067], line 2) whether messages in the first network portion are peer-to-peer messages or other

messages and routes (paragraph [0058], line 4) all peer-to-peer messages in the first network portion with an intended destination in the second network portion outside (paragraph [0058], line 5) of a network of an Internet Service Provider (ISP) to a gateway [Fig. 4c: 408] (paragraph [0065], line 2) between peer-to-peer nodes residing on said first and second network portions; and a gateway controller (paragraph [0077], line 5) that controls transport of said peer-to-peer messages into said second network portion, without limiting propagation of the other messages into the second network portion.”

The subject matter recited in independent claim 110 includes: “A gateway controller (paragraph [0077], line 5), that reduces traffic in a decentralized peer-to-peer network operating over an underlying network comprising first and second network portions, the controller operating at a gateway [Fig. 4c: 408] (paragraph [0065], line 2) between peer-to-peer nodes residing on said first and second network portions, the gateway controller (paragraph [0077], line 5) comprising: an interface for said first and second network portions, that receives all peer-to-peer messages in the first network portion with an intended destination in the second network portion outside of a network of an Internet Service Provider (ISP), wherein a router [Fig. 5: 506] (paragraph [0067, line 2) identifies whether messages in the first network portion are peer-to-peer messages or other messages; and a controller that limits propagation of the peer-to-peer messages into the second network portion without limiting propagation of the other messages into the second network portion.”

The subject matter recited in dependent claim 78 includes: "blocking (paragraph [0058], line 11) said peer-to-peer messages at said gateway."

The subject matter recited in dependent claim 95 includes: "wherein said gateway controller blocks (paragraph [0058], line 11) the peer-to-peer messages at said gateway."

The subject matter recited in dependent claim 111 includes: "wherein said controller blocks (paragraph [0058], line 11) the peer-to-peer messages at said gateway."

The subject matter recited in dependent claim 80 includes: "responding (paragraph [0035], line 5) to said peer-to-peer messages from said gateway."

The subject matter recited in dependent claim 97 includes: "wherein said gateway controller responds (paragraph [0035], line 5) to the peer-to-peer messages."

The subject matter recited in dependent claim 113 includes: "wherein said controller responds (paragraph [0035], line 5) to the peer-to-peer messages."

The subject matter recited in dependent claim 87 includes: "wherein data transport over said third network portion has a cost less than a cost (paragraph [0077], last five lines) associated with said second network portion."

The subject matter recited in claim 81 includes: "sending a response to said queries comprising cached data derived (paragraph [0076], line 4) from previous responses to the queries."

The subject matter recited in claim 98 includes: "wherein said gateway

controller sends a response to said queries including data from said cache (paragraph [0076], line 4)."

The subject matter recited in claim 114 includes: "wherein said controller responds to the queries using data from said query cache, wherein the peer-to-peer messages comprise queries (paragraph [0076], line 4)."

The subject matter recited in claim 83 includes: "modifying (paragraph [0031], line 2) a response to a previous file search request such that said response does not indicate that a requested file may be found in said second network portion."

The subject matter recited in claim 100 includes: "wherein said gateway controller modifies (paragraph [0031], line 2) a response to a previous file search request such that said response does not indicate that a requested file may be found in said second network portion."

The subject matter recited in claim 117 includes: "said controller modifies (paragraph [0031], line 2) a response to a previous file search request such that said response does not indicate that a requested file may be found in said second network portion."

The subject matter recited in claim 86 includes: "modifying (paragraph [0031], line 2) said response to indicate that said requested file is obtainable from a peer-to-peer node located on said third network portion (paragraph [0031], line 4)."

The subject matter recited in claim 103 includes: "wherein said gateway controller modifies (paragraph [0031], line 2) said response to indicate that said

requested file is obtainable from a peer-to-peer node located on said third network portion (paragraph [0031], line 4).”

The subject matter recited in claim 120 includes: “wherein said controller modifies (paragraph [0031], line 2) said response to indicate that said requested file is obtainable from a peer-to-peer node located on said third network portion (paragraph [0031], line 4).”

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review:

A. On pages 3-13, the Office Action rejects claims 75-80, 87, 92-97, 108, 110-113, 123, and 126 under 35 U.S.C. § 103(a) as allegedly unpatentable over Pub. No. US2003/0208621 to Bowman ("Bowman").

B. On page 13-20, the Office Action rejects claims 81, 83, 86, 98, 100, 103, 114, 117, and 120 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Pub. No. US2003/0062375 to Teodosiu ("Teodosiu").

C. On pages 20 and 21, the Office Action rejects claims 82, 99, and 115 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Pub. No. US2004/0148434 to Matsubara et al ("Matsubara").

D. On pages 22 and 23, the Office Action rejects claims 84, 101, and 118 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Teodosiu, further in view of Pub. No. US2002/0049760 to Scott et al ("Scott").

E. On pages 23 and 24, the Office Action rejects claims 85, 102, and 119 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Teodosiu, further in view of Matsubara.

F. On pages 24-28, the Office Action rejects claims 88, 89, 104, 105, 121, and 122 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Pub. No. US2004/0088646 to Yeager et al ("Yeager").



## VII. ARGUMENT

### A. Rejections of Claims 75-80, 87, 92-97, 108, 110-113, 123, and 126 under 35 U.S.C. § 103(a)

On pages 3-13, the Office Action rejects claims 75-80, 87, 92-97, 108, 110-113, 123, and 126 under 35 U.S.C. § 103(a) as allegedly unpatentable over Pub. No. US2003/0208621 to Bowman ("Bowman").

#### 1. Independent Claims 75, 92, and 110

As set forth in MPEP § 2143, "the key to supporting any rejection under 35 U.S.C. § 103(a) is the clear articulation of the reason(s) why the claimed invention would have been obvious" (emphasis added). Moreover, an Office Action must also "resolve the *Graham* factual inquiries." Here, the Office Action fails to present either clear articulation of the reasons or resolution of the factual inquiries. Thus, Appellant respectfully submits that the Office Action fails to present a *prima facie* case to support any of the obviousness rejections. In addition, even assuming *arguendo*, the sufficiency on its face of the Office Action's stated reasoning for the combination, Appellant respectfully submits that the references fail to support the reasoning because they fail to disclose, alone or in combination, subject matter meeting a number of the recited elements interpreted according to their broadest reasonable meaning.

Independent claim 75 recites: "controlling transport of said peer-to-peer messages at said gateway to limit propagation of said peer-to-peer messages into said second network portion, without limiting propagation of the other messages into the

second network portion” (emphasis added). Similar subject matter appears in independent claims 92 and 110. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 4, the Office Action correctly concedes that “Bowman does not explicitly disclose” this subject matter. In the next paragraph, the Office Action contradicts itself by alleging that Bowman would render this subject matter obvious, relying upon Bowman itself for subject matter previously admitted to be absent from Bowman. Thus, Appellant respectfully submits that this obviousness rejection is clearly improper because it is logically inconsistent.

Independent claim 75 also recites: “identifying, with an Internet Service Provider (ISP) router, whether messages in the first network portion are peer-to-peer messages or other messages” (emphasis added). Similar subject matter appears in independent claims 92 and 110. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 3, the Office Action alleges that Bowman provides this subject matter, relying upon paragraph [0053] of Bowman. However, Appellant respectfully submits that Bowman does not actually identify whether messages are P2P messages or other messages. Instead, Bowman’s distribution sends “only P2P communications,” as disclosed in paragraph [0053]. Thus, Bowman actually teaches away from the recited subject matter because Bowman does not provide a system with a mixture of P2P and other messages.

Independent claim 75 further recites: "routing all peer-to-peer messages in the first network portion with an intended destination in the second network portion outside of a network of an Internet Service Provider (ISP) to a gateway between peer-to-peer nodes residing on said first and second network portions" (emphasis added). Similar subject matter appears in independent claims 92 and 110. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 4, the Office Action alleges that paragraphs [0048] and [0053] of Bowman somehow provide this subject matter. However, Appellant respectfully submits that the Office Action fails to identify a gateway between the peer-to-peer nodes. Moreover, the Office Action also lacks any routing to a gateway.

For the reasons listed above, Appellant respectfully submits that independent claims 75, 92, and 110 are allowable. Therefore, Appellant respectfully requests withdrawal of the rejection of claims 75, 92, and 110 under 35 U.S.C. § 103(a).

## 2. Dependent Claims 78, 95, and 111

Claim 78 recites, in part: "blocking said peer-to-peer messages at said gateway" (emphasis added). Similar subject matter appears in claims 95 and 111. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 5, the Office Action relies upon paragraph [0040] of Bowman for this subject matter. In response, Appellant respectfully submits that paragraph [0040] of

Bowman actually discloses “dropping” messages if there is no need to send them on. Dropping messages is not the same as the recited step of blocking messages, as there is no indication that Bowman's dropping occurs because the dropped messages have been identified as peer-to-peer messages.

Claim 78 depends from claim 75. Claim 95 depends from claim 92. Claim 111 depends from claim 110. Thus, claims 78, 95, and 111 are allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 78, 95, and 111 under 35 U.S.C. § 103(a).

2. Dependent Claim 80, 97, and 113

Claim 80 recites, in part: “responding to said peer-to-peer messages from said gateway” (emphasis added). Similar subject matter appears in claims 97 and 113. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 6, the Office Action alleges that Bowman provides this subject matter, relying upon paragraph [0075] of Bowman. In particular, the Office Action alleges that Bowman forwards location information to the “originator” of the query message. In response, Appellant respectfully submits that the originator of the query message is not equivalent to the recited gateway because the originator, as defined by Bowman, would be a node on the Internet outside of the ISP network.

Claim 80 depends from claim 75. Claim 97 depends from claim 92. Claim 113

depends from claim 110. Thus, claims 80, 97, and 113 are allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 80, 97, and 113 under 35 U.S.C. § 103(a).

3. Dependent Claim 87

Claim 87 recites, in part: “wherein data transport over said third network portion has a cost less than a cost associated with said second network portion” (emphasis added). Similar subject matter appears in claims 97 and 113. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 6, the Office Action alleges that Bowman provides this subject matter, relying upon paragraph [0075] of Bowman. In response, Appellant respectfully submits that this rejection fails to distinguish between the second and third network portion, because the Office Action previously identified “networks 12b to 12n” as the second network portion. Here, the Office Action erroneously assumes that the cost would be “less” on some undefined node on the Internet, while claim 87 clearly distinguishes the second and third network portion. Moreover, it would be cheaper for the ISP to access a P2P node within its own network instead of a node on the Internet, so the cited portion of Bowman actually teaches away from this subject matter. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 87 under 35 U.S.C. § 103(a).

4. Dependent Claims 76, 77, 79, 93, 94, 96, 108, 112, 123, and 126

Claims 76, 77, and 79 depend from claim 75. Claims 93, 94, 96, and 108 depend from claim 92. Claims 112, 123, and 126 depend from claim 110. Thus, claims 76, 77, 79, 93, 94, 96, 108, 112, 123, and 126 are allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 76, 77, 79, 93, 94, 96, 108, 112, 123, and 126 under 35 U.S.C. § 103(a).

**B. Rejections of Claims 81, 83, 86, 98, 100, 103, 114, 117, and 120 under 35 U.S.C. § 103(a)**

On page 13-20, the Office Action rejects claims 81, 83, 86, 98, 100, 103, 114, 117, and 120 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Teodosiu.

**1. Dependent Claims 81, 98, and 114**

Claim 81 recites, in part: “sending a response to said queries comprising cached data derived from previous responses to the **queries**” (emphasis added). Similar subject matter appears in claims 98 and 114. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 14, the Office Action correctly concedes that Bowman fails to provide this subject matter. To remedy this admitted deficiency, the Office Action then applies Teodosiu's teachings, citing paragraphs [0044] and [0050] of Teodosiu. In response, Appellant respectfully submits that Teodosiu fails to provide cached data that are derived from previous responses to queries. Instead, as disclosed in paragraph [0050], Teodosiu creates an “internal resource record” that indicates whether a master publisher is logged into a network and whether a resource still exists. Such information would not be equivalent to the recited cached data because Teodosiu's internal resource record is unrelated to any queries.

Appellant respectfully submits that Teodosiu also fails to remedy the deficiencies

of Bowman for independent claims 75, 92, and 110. Claim 81 depends from claim 75. Claim 98 depends from claim 92. Claim 114 depends from claim 110. Thus, claims 81, 98, and 114 are allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 81, 98, and 114 under 35 U.S.C. § 103(a).

2. Dependent Claims 83, 100, and 117

Claim 83 recites, in part: “modifying a response to a previous file search request such that said response does not indicate that a requested file may be found in said second network portion” (emphasis added). Similar subject matter appears in claims 100 and 117. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 15, the Office Action correctly concedes that Bowman lacks this subject matter. To remedy this admitted deficiency, the Office Action relies upon paragraph [0039] of Teodosiu. In response, Appellant respectfully submits that Teodosiu does not modify a response. In fact, paragraph [0039] of Teodosiu declares that “gate server 120 may simply respond with the location(s) and allow the client service to directly access the resource on its own” (emphasis added).

A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Also see MPEP § 2141.02. In this case, Appellant respectfully submits that Teodosiu



teaches away from the claimed invention by suggestion that a client service should directly access the resource on its own.

Claim 83 depends from claim 75. Claim 100 depends from claim 92. Claim 117 depends from claim 110. Thus, claims 83, 100, and 117 are also allowable due to their dependencies from allowable claims. Therefore, Appellant respectfully requests withdrawal of the rejection of claims 83, 100, and 117 under 35 U.S.C. § 103(a).

3. Dependent Claims 86, 103, and 120

Claim 86 recites, in part: “modifying said response to indicate that said requested file is obtainable from a peer-to-peer node located on said third network portion” (emphasis added). Similar subject matter appears in claims 103 and 120. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 15, the Office Action relies upon paragraph [0075] of Bowman for this subject matter. In response, Appellant respectfully submits that Bowman does not modify any responses. Instead, as recited in paragraph [0075], Bowman forwards a query message if a file has not been located. Forwarding a query message is not the same as modifying a response.

Claim 86 depends from claim 75. Claim 103 depends from claim 92. Claim 120 depends from claim 110. Thus, claims 86, 103, and 120 are also allowable due to its dependency from an allowable base claim. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 86, 103, and 120 under 35 U.S.C. § 103(a).

C. Rejections of Claims 82, 99, and 115 under 35 U.S.C. § 103(a)

On pages 20 and 21, the Office Action rejects claims 82, 99, and 115 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Matsubara.

On page 20, the Office Action alleges that paragraph [0062] of Matsubara discloses “a data stored [sic] configured with the P2P gateway server to cache accessed files.” In response, Appellant respectfully submits that Matsubara teaches away from use of a gateway server alone, instead indicating that “gateway logic 202” should “cooperate with the HTTP server component 206 to generate a suitable Web page or other suitable HTTP message.” Moreover, as disclosed in paragraph [0059], Matsubara does not even use P2P messages. Instead, the browser communicates an HTTP message indicative of a file to be downloaded.

On page 20, the Office Action alleges that it would have been obvious to apply Matsubara's alleged teachings to Bowman. In response, Appellant respectfully submits that Matsubara is incompatible with Bowman because Bowman only uses P2P messages while Matsubara teaches away from the use of any P2P messages. As disclosed, for example, in paragraph [0025], Matsubara's invention is “directed to accessing a P2P network from a node that transmits messages which conform to a protocol that is different from the P2P protocol” (emphasis added). Consequently, Appellant respectfully submits that the alleged combination of Matsubara and Bowman would be inoperable because Matsubara does not use P2P protocol messages.

Appellant also submits that Matsubara fails to remedy the deficiencies of Bowman for independent claims 75, 92, and 110. Claim 82 depends from claim 75. Claim 99 depends from claim 92. Claim 115 depends from claim 110. Thus, claims 82, 99, and 115 are also allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 82, 99, and 115 under 35 U.S.C. § 103(a).

**D. Rejections of Claims 84, 101, and 118 under 35 U.S.C. § 103(a)**

On pages 22 and 23, the Office Action rejects claims 84, 101, and 118 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Teodosiu, further in view of Scott.

Appellant also respectfully submits that Scott fails to remedy the deficiencies of Bowman for independent claims 75, 92, and 110. Claim 84 depends from claim 75. Claim 101 depends from claim 92. Claim 118 depends from claim 110. Thus, claims 84, 101, and 118 are allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 84, 101, and 118 under 35 U.S.C. § 103(a).

**E. Rejections of Claims 85, 102, and 119 under 35 U.S.C. § 103(a)**

On pages 23 and 24, the Office Action rejects claims 85, 102, and 119 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Teodosiu, further in view of Matsubara.

On page 23, the Office Action alleges that paragraph [0062] of Matsubara discloses “a data stored [sic] configured with the P2P gateway server to cache accessed files.” In response, Appellant respectfully submits that Matsubara teaches away from use of a gateway server alone, instead indicating that “gateway logic 202” should “cooperate with the HTTP server component 206 to generate a suitable Web page or other suitable HTTP message.” Moreover, as disclosed in paragraph [0059], Matsubara does not even use P2P messages. Instead, the browser communicates an HTTP message indicative of a file to be downloaded.

On page 20, the Office Action alleges use of “the same rationale to combine used in claim 82.” In response, Appellant respectfully submits that Matsubara is just as incompatible with the alleged combination of Bowman-Teodosiu as with Bowman alone because Bowman only uses P2P messages while Matsubara teaches away from the use of any P2P messages. As disclosed, for example, in paragraph [0025], Matsubara's invention is “directed to accessing a P2P network from a node that transmits messages which conform to a protocol that is different from the P2P protocol” (emphasis added). Consequently, Appellant respectfully submits that the alleged combination of Matsubara and Bowman-Teodosiu would be inoperable because Matsubara does not

use P2P protocol messages while Bowman and Teodosiu require the P2P protocol.

Appellant also submits that Matsubara fails to remedy the deficiencies of Bowman for independent claims 75, 92, and 110. Claim 85 depends from claim 75. Claim 102 depends from claim 92. Claim 119 depends from claim 110. Thus, claims 85, 102, and 119 are also allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 85, 102, and 119 under 35 U.S.C. § 103(a).

F. Rejections of Claims 88, 89, 104, 105, 121, and 122 under 35 U.S.C. § 103(a)

On pages 24-28, the Office Action rejects claims 88, 89, 104, 105, 121, and 122 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Yeager.

Appellant respectfully submits that Yeager fails to remedy the deficiencies of Bowman for independent claims 75, 92, and 110. Claims 88 and 89 depend from claim 75. Claim 104 and 105 depend from claim 92. Claims 121 and 122 depend from claim 110. Thus, claims 88, 89, 104, 105, 121, and 122 are allowable at least due to their respective dependencies from allowable base claims. Therefore, Appellant respectfully requests withdrawal of the rejections of claims 88, 89, 104, 105, 121, and 122 under 35 U.S.C. § 103(a).

**G. Conclusion**

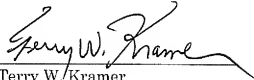
As detailed above, the Office Action fails to present either clear articulation of the reasons or resolution of the factual inquiries required for a determination of obviousness. In addition, as detailed above, Appellant respectfully submits that the references fail to disclose, alone or in combination, a number of recited elements of each of the claims discussed above. Therefore, Appellant respectfully submits that the Office Action fails to present a *prima facie* case to support any of the obviousness rejections. Accordingly, Appellant respectfully requests reversal of the rejections of all pending claims under 35 U.S.C. § 103(a).



**CONCLUSION**

For at least the reasons discussed above, Appellant respectfully submits that the rejections are in error and that claims 75-89, 92-105, 108, 110-115, 117-123, and 126 are in condition for allowance. Therefore, Appellant respectfully requests that this Honorable Board reverse the rejections of claims 75-89, 92-105, 108, 110-115, 117-123, and 126.

Respectfully submitted,  
**KRAMER & AMADO, P.C.**

A handwritten signature in black ink, appearing to read "Terry W. Kramer", is written over a horizontal line.

Terry W. Kramer  
Reg. No. 41,541

Date: September 1, 2010

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## VIII. CLAIMS APPENDIX

### CLAIMS INVOLVED IN THE APPEAL:

1-74. (Canceled)

75. (Rejected) A method of reducing traffic in a decentralized peer-to-peer network, said peer-to-peer network operating over an underlying network comprising first and second network portions, the method comprising:

identifying, with an Internet Service Provider (ISP) router, whether messages in the first network portion are peer-to-peer messages or other messages;

routing all peer-to-peer messages in the first network portion with an intended destination in the second network portion outside of a network of an Internet Service Provider (ISP) to a gateway between peer-to-peer nodes residing on said first and second network portions; and

controlling transport of said peer-to-peer messages at said gateway to limit propagation of said peer-to-peer messages into said second network portion, without limiting propagation of the other messages into the second network portion.

76. (Rejected) The method of claim 75, wherein said first network portion comprises a portion of said underlying network managed by the ISP and said second network portion comprises a portion of said underlying network not managed by the ISP that is

connected to said first network portion across a boundary.

77. (Rejected) The method of claim 76, further comprising:

limiting a number of peer-to-peer connections across said boundary to a permitted maximum.

78. (Rejected) The method of claim 75, wherein said transport controlling further comprises:

blocking said peer-to-peer messages at said gateway.

79. (Rejected) The method of claim 75, wherein said transport controlling further comprises:

redirecting said peer-to-peer messages to a peer-to-peer node within said first network portion.

80. (Rejected) The method of claim 75, wherein said transport controlling further comprises:

responding to said peer-to-peer messages from said gateway.

81. (Rejected) The method of claim 80 wherein said peer-to-peer messages comprise queries, and wherein said responding further comprises:

sending a response to said queries comprising cached data derived from previous responses to the queries.

82. (Rejected) The method of claim 80, wherein said peer-to-peer messages comprise file requests, and wherein said responding further comprises:

sending a response to said file requests comprising previously cached data for a requested file.

83. (Rejected) The method of claim 75, wherein said peer-to-peer messages comprises file request messages, and wherein said controlling further comprises:

modifying a response to a previous file search request such that said response does not indicate that a requested file may be found in said second network portion.

84. (Rejected) The method of claim 83, wherein said requested file is identified by a hash value.

85. (Rejected) The method of claim 83, further comprising:

storing requested files in a cache, wherein said response is modified to refer to said cache.

86. (Rejected) The method of claim 83, wherein said underlying network comprises a

third network portion, and wherein said modifying further comprises:

modifying said response to indicate that said requested file is obtainable from a peer-to-peer node located on said third network portion.

87. (Rejected) The method of claim 75, wherein said physical network comprises a third network portion, wherein use of each of said network portions has an associated cost, wherein data transport over said third network portion has a cost less than a cost associated with said second network portion, and wherein said controlling further comprises:

directing said peer-to-peer messages into said third network portion.

88. (Rejected) The method of claim 75, wherein said peer-to-peer messages have message identifiers, and wherein said controlling further comprises:

storing said message identifiers for said peer-to-peer messages;

monitoring message identifiers of the peer-to-peer messages passing through said gateway to produce identified messages; and

limiting propagation of said identified messages such that said messages pass between said first and second network portions no more than a permitted maximum number of times.

89. (Rejected) The method of claim 88, wherein said permitted maximum number of

times is one.

90-91. (Canceled).

92. (Rejected) A computer network message controller that reduces traffic in a decentralized peer-to-peer network, said peer-to-peer network operating over a physical network comprising first and second network portions, said network message controller comprising:

a router that identifies whether messages in the first network portion are peer-to-peer messages or other messages and routes all peer-to-peer messages in the first network portion with an intended destination in the second network portion outside of a network of an Internet Service Provider (ISP) to a gateway between peer-to-peer nodes residing on said first and second network portions; and

a gateway controller that controls transport of said peer-to-peer messages into said second network portion, without limiting propagation of the other messages into the second network portion.

93. (Rejected) The computer network message controller of claim 92, wherein said first network portion comprises a portion of said physical network managed by the ISP and said second network portion comprises a portion of said physical network not managed by the ISP that is connected to said first network portion across a boundary.

94. (Rejected) The computer network message controller of claim 93, wherein said gateway controller limits a number of peer-to-peer connections across said boundary to a permitted maximum.

95. (Rejected) The computer network message controller of claim 92 wherein said gateway controller blocks the peer-to-peer messages at said gateway.

96. (Rejected) The computer network message controller of claim 92 wherein said gateway controller is redirects the peer-to-peer messages to a peer-to-peer node within said first network portion.

97. (Rejected) The computer network message controller of claim 92 wherein said gateway controller responds to the peer-to-peer messages.

98. (Rejected) The computer network message controller of claim 97, further comprising:

a cache that stores data, wherein said peer-to-peer messages comprise queries, and wherein said gateway controller sends a response to said queries including data from said cache.

99. (Rejected) The computer network message controller of claim 97 wherein said peer-to-peer messages comprise file requests, further comprising:

a cache that stores data derived from previous responses to file requests, and wherein said gateway controller sends a response to said file request including data from said cache.

100. (Rejected) The computer network message controller of claim 92, wherein said peer-to-peer messages comprise file request messages, and wherein said gateway controller modifies a response to a previous file search request such that said response does not indicate that a requested file may be found in said second network portion.

101. (Rejected) The computer network message controller of claim 100, wherein said requested file is identified by a hash value.

102. (Rejected) The computer network message controller of claim 100, further comprising:

a cache that stores requested files, and wherein said gateway controller modifies said response to refer to said cache.

103. (Rejected) The computer network message controller of claim 92 wherein said underlying network further comprises:

a third network portion, wherein said gateway controller modifies said response to indicate that said requested file is obtainable from a peer-to-peer node located on



said third network portion.

104. (Rejected) The computer network message controller of claim 92, wherein said peer-to-peer messages have message identifiers, and wherein said gateway controller stores said message identifiers for said peer-to-peer messages, monitors message identifiers of the peer-to-peer messages passing through said gateway to produce identified messages, and limits propagation of said identified messages such that said identified messages pass between said first and second network portions no more than a permitted maximum number of times.

105. (Rejected) The computer network message controller of claim 104, wherein said permitted maximum number of times is one.

106-107. (Canceled).

108. (Rejected) The computer network message controller of claim 92, wherein said gateway controller further comprises:

a processor, and

a program memory storing processor control code coupled to said processor to load and implement said code.

109. (Canceled).

110. (Rejected) A gateway controller, that reduces traffic in a decentralized peer-to-peer network operating over an underlying network comprising first and second network portions, the controller operating at a gateway between peer-to-peer nodes residing on said first and second network portions, the gateway controller comprising:

an interface for said first and second network portions, that receives all peer-to-peer messages in the first network portion with an intended destination in the second network portion outside of a network of an Internet Service Provider (ISP), wherein a router identifies whether messages in the first network portion are peer-to-peer messages or other messages; and

a controller that limits propagation of the peer-to-peer messages into the second network portion without limiting propagation of the other messages into the second network portion.

111. (Rejected) The gateway controller of claim 110, wherein said controller blocks the peer-to-peer messages at said gateway.

112. (Rejected) The gateway controller of claim 110, wherein said controller redirects the peer-to-peer messages to a peer-to-peer node within said first network portion.

113. (Rejected) The gateway controller of claim 110, wherein said controller responds to the peer-to-peer messages.

114. (Rejected) The gateway controller of claim 113, further comprising:

a query cache that stores data derived from responses to queries, wherein said controller responds to the queries using data from said query cache, wherein the peer-to-peer messages comprise queries.

115. (Rejected) The gateway controller of claim 113, further comprising:

a file request cache that stores data derived from responses to file requests, wherein the peer-to-peer messages comprise file requests and said controller responds to said file requests using data from said file request cache.

116. (Canceled).

117. (Rejected) The gateway controller of claim 110, wherein said peer-to-peer messages comprise file request messages, and said controller modifies a response to a previous file search request such that said response does not indicate that a requested file may be found in said second network portion.

118. (Rejected) The gateway controller of claim 117, wherein said requested file is identified by a hash value.

119. (Rejected) The gateway controller of claim 117, further comprising:

a cache that stores requested files, wherein said controller modifies said response to refer to said cache.

120. (Rejected) The gateway controller of claim 110, wherein said underlying network further comprises:

a third network portion, wherein said controller modifies said response to indicate said requested file is obtainable from a peer-to-peer node located on said third network portion.

121. (Rejected) The gateway controller of claim 110, wherein the peer-to-peer messages have message identifiers, said controller stores said message identifiers for the peer-to-peer messages, monitors the message identifiers of the peer-to-peer messages passing through said gateway to produce identified messages, and limits propagation of said identified messages such that said peer-to-peer messages pass between said first and second network portions no more than a permitted maximum number of times.

122. (Rejected) The gateway controller of claim 121, wherein said permitted maximum number of times is one.

123. (Rejected) The gateway controller of claim 110, wherein said first network

portion comprises a portion of said underlying network managed by the ISP and said second network portion comprises a portion of said underlying network not managed by the ISP that is connected to said first network portion across a boundary, and wherein said controller provides a limited number of peer-to-peer connections across said boundary.

124-125. (Canceled).

126. (Rejected) The gateway controller of claim 110, wherein said controller further comprises:

a processor; and

a program memory storing processor control code coupled to said processor to load and implement said code, said code comprising code to configure said controller to control transport of said message into said other of said network portions.

127-148. (Canceled).

#### **IX. EVIDENCE APPENDIX**

A copy of the following evidence 1) entered by the Office Action, including a statement setting forth where in the record the evidence was entered by the Office Action, 2) relied upon by the Appellant in the appeal, and/or 3) relied upon by the Office Action as to the grounds of rejection to be reviewed on appeal, is attached:

NONE.

**X. RELATED PROCEEDINGS APPENDIX**

Copies of relevant decisions in prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal are attached:

NONE.